

[*Tan v. Deborah Research Institute*, 94-ERA-31 \(ALJ Oct. 14, 1994\)](#)

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DATE: Oct. 14, 1994

CASE NO.: 94-ERA-31

In the Matter of

DR. ZHONGTUO TAN
Complainant

v.

DEBORAH RESEARCH INSTITUTE
Respondent

Before: JOEL R. WILLIAMS
Administrative Law Judge

**ORDER RECOMMENDING APPROVAL OF SETTLEMENT AND
DISMISSAL OF THE COMPLAINT WITH PREJUDICE**

This case arises under the employee protection provisions of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. §5851. On June 15, 1994, the District Director, U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, notified the Respondent that it appeared that protected activity engaged in by the Complainant was a major contributing factor in his separation from the firm and, accordingly, the Respondent should provide restitution for lost income, fringe benefits and certain housing costs.

The Respondents timely requested a hearing and, pursuant to the agreement of counsel, such proceeding was scheduled for September 7, 1994 in Philadelphia, Pennsylvania. However, prior to the scheduled hearing date, counsel advised that they had reached a settlement agreement in this matter which was being reduced to writing and would be submitted for approval by the Secretary of Labor. Consequently, the hearing was cancelled by Order dated September 2, 1994. The parties were informed in such order that the terms of the settlement were subject to public disclosure under the Freedom of Information Act.

A duly executed settlement agreement has now been submitted. It is appended hereto and is incorporated herein by reference.

counsel. Although the parties have agreed to certain confidentiality regarding the agreement, they recognize the Department of Labor is not restricted by such confidentiality agreement. Furthermore, the provision in the agreement that it shall be interpreted and enforced under the laws of the Commonwealth of Pennsylvania is interpreted as meaning that its intent is not to limit the authority of the Secretary under any federal statute or regulation. See, *Brown v. Holmes & Narver, Inc.*, Case No. 90-ERA-26, Order of the Secretary Approving Settlement and Dismissing Complaint, May 11, 1994.

I find the agreement to be fair, adequate and reasonable, and I believe it is in the public interest to adopt the agreement as a basis for the administrative disposition of this case. Accordingly, I recommend that the settlement be approved and that the case be dismissed with prejudice.

JOEL R. WILLIAMS
Administrative Law Judge

NOTICE: This recommended Order and the Administrative file in this matter will be forwarded for review by the Secretary of Labor to the Office of Administrative Appeals, U.S. Department of Labor, Room S-4309, Francis Perkins Building, 200 Constitution Ave., N.W., Washington, D.C. 20210. The Office of Administrative Appeals has the responsibility to advise and assist the Secretary in the preparation and issuance of final decisions in employee protection cases adjudicated under the regulations at 29 C.F.R. Parts 24 and 1978. See 55 Fed. Reg. 13250 (1990).